

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: JANUARY 21, 2009**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: SUP-31478 - APPLICANT/OWNER: 2027 NORTH DECATUR, LLC**

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**\*\* CONDITIONS \*\***

The Planning Commission (6-0 vote) and staff recommend APPROVAL, subject to:

**Planning and Development**

1. Conformance to all Minimum Requirements under LVMC Title 19.04.010 for Beer/Wine/Cooler Off-Sale use.
2. [Approval and conformance to the Conditions of Approval for Site Development Plan Review \(SDR-31479\) shall be required, if approved.](#)
3. This approval shall be void two years from the date of final approval, unless a building permit has been issued for the principal building on the site. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. Approval of this Special Use Permit does not constitute approval of a liquor license.
5. The sale of individual containers of any size of beer or wine coolers is prohibited. All such products shall remain in their original configurations as shipped by the manufacturer. Further, no repackaging of containers into groups smaller than the original shipping container size shall be permitted.
6. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
7. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Special Use Permit for a proposed Beer/Wine/Cooler Off-Sale Establishment in conjunction with a proposed 2,944 square-foot convenience store on 1.54 acres at the northwest corner of Lake Mead Boulevard and Decatur Boulevard.

In addition to this request, the applicant has submitted a request for a Rezoning (ZON-31477) from U (Undeveloped) zone [SC (Service Commercial) General Plan designation] to C-1 (Limited Commercial) on 0.51 acres at 2047 North Decatur Boulevard, and a request for a Site Development Plan Review (SDR-31479) for a proposed 12,422 square-foot single-story retail development with Waivers of the Building Placement and Orientation Standards and to allow a 24-foot section of the west perimeter landscape buffer to be 8 feet in width where 15 feet is required on 1.54 acres at the northwest corner of Lake Mead Boulevard and Decatur Boulevard. As the requested Special Use Permit meets all minimum Special Use Permit requirements for a Beer/Wine/Cooler Off-Sale Establishment use and is in conjunction with a compatible in-fill development project, staff recommends approval of this request.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
03/15/00	The City Council approved a request for a Site Development Plan Review (SD-0037-99) for a proposed 3,660 square-foot addition to an existing 1,839 square-foot Auto Repair Garage, Minor at 2027 North Decatur Boulevard. The Planning Commission recommended denial.
12/02/03	Code Enforcement processed a complaint (#7253) for a wooden sign erected in the planter area at 2027 North Decatur Boulevard. The case was resolved on 03/15/04.
06/16/04	The City Council approved a request for a Special Use Permit (SUP-4195) for an existing Auto Repair Garage, Minor at 2027 North Decatur Boulevard. The Planning Commission recommended approval.
08/03/05	The City Council approved a petition to Annex (ANX-6550) land generally located at the southwest corner of Decatur Boulevard and Sawyer Avenue. The Planning Commission recommended approval.
09/07/05	The City Council approved a request for a Site Development Plan Review (SDR-6940) for a proposed 12,776 square-foot commercial development and Waivers of the parking lot, foundation, and perimeter landscaping requirements and a Waiver of the commercial design standards to allow a 10-foot corner side setback where 15 feet is required, and a request for a Rezoning (ZON-7051) from U (Undeveloped) Zone [SC (Service Commercial) General Plan designation] to C-1 (Limited Commercial) on 1.5 acres adjacent to the northeast corner of Lake Mead Boulevard and Decatur Boulevard. The Planning Commission recommended approval.

01/03/07	Code Enforcement processed a complaint (#48898) for illegal signage along Decatur Boulevard from Rancho Drive to Vegas Drive. The case was resolved on 01/22/07.
01/30/08	Code Enforcement processed a complaint (#61961) to check the area of Sawyer Avenue and North Decatur Boulevard for all possible violations. The case was resolved on 03/06/08.
02/04/08	Code Enforcement processed a complaint (#62035) for refuse and waste on the vacant lots located at 2037 and 2047 North Decatur Boulevard. The case was resolved on 02/21/08.
02/20/08	Code Enforcement processed a complaint (#62513) for the vacant lots located at 2037 and 2047 North Decatur Boulevard being used as dumping sites. The case was resolved on 02/21/08.
02/25/08	Code Enforcement processed a complaint (#62635) for people driving up to the vacant lots located at 2037 and 2047 North Decatur Boulevard and performing illegal dumping. The case was resolved on 03/06/08.
07/02/08	The City Council approved a Required Review of an approved Special Use Permit (SUP-4195) for an existing Auto Repair Garage, Minor at 2027 North Decatur Boulevard.
08/06/08	The City Council approved a Required Review of an approved Special Use Permit (SUP-4195) for an existing Auto Repair Garage, Minor at 2027 North Decatur Boulevard.
12/18/08	The Planning Commission recommended approval of companion items ZON-31477 and SDR-31479 concurrently with this application.  The Planning Commission voted 6-0 to recommend APPROVAL (PC Agenda Item #9/ne).
<b><i>Related Building Permits/Business Licenses</i></b>	
08/22/96	A business license (#G02-00663) was issued for a minor auto repair facility at 2027 North Decatur Boulevard.
02/07/03	A business license (#T24-00396) was issued for flower sales at 2027 North Decatur Boulevard. The license was marked out on 05/16/07.
<b><i>Pre-Application Meeting</i></b>	
10/21/08	A pre-application meeting was held where the submittal requirements for a Special Use Permit application were discussed.
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting was not required, nor was one held.	

<b><i>Field Check</i></b>	
11/06/08	Staff performed a routine field check where graffiti was noted on the walls adjacent to the vacant lots, the perimeter landscaping around the existing automotive repair facility appeared to be deficient of the required shrubbery, and non-permitted temporary signage (A-frame type) was noted on the vacant parcel next to the automotive repair facility.

Details of Application Request					
Site Area					
Net Acres		1.51			
Surrounding Property		Existing Land Use	Planned Land Use	Existing Zoning	
Subject Property		Automotive Repair Garage & Vacant Land	SC (Service Commercial)	C-1 (Limited Commercial) & U (Undeveloped) zone [SC (Service Commercial) General Plan designation]	
North		Restaurant	SC (Service Commercial)	C-1 (Limited Commercial)	
South		Restaurant & Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)	
East		Single-Family Residences, Office, Retail, & Las Vegas Valley Water District Facility	ML (Medium Low Density Residential) & SC (Service Commercial)	R-PD8 (Residential Planned Development – 8 Units Per Acre) & R-1 (Single Family Residential) & C-1 (Limited Commercial)	
West		Office & Single-Family Residential	SC (Service Commercial) & DR [(Desert Rural) Clark County]	C-1 (Limited Commercial) & R-E [(Rural Estates) Clark County]	
Special Districts/Zones			Yes	No	Compliance
Special Area Plan				X	N/A
Special Districts/Zones			Yes	No	Compliance
Special Purpose and Overlay Districts			X		Y
A-O (Airport Overlay) District – 70 Feet			X		Y
Trails			X		Y
Rural Preservation Overlay District				X	N/A
Development Impact Notification Assessment				X	N/A
Project of Regional Significance*			X		Y

#### **A-O (Airport Overlay) District – 70 Feet**

No structure shall be erected, altered or maintained on any parcel within the boundaries of the Airport Overlay District that would violate the height limitations defined by the McCarran Airport Overlay Map and the North Las Vegas Airport Overlay Map. The subject site is within the 70-foot contour limitations and does not violate the height limitations. The tallest elevation of the proposed building is 30.67 feet in height and is in compliance with the Airport Overlay District.

**\*Project of Regional Significance**

Pursuant to Ordinance No. 5227, the project under review meets the threshold that defines a “Project of Regional Significance” as outlined in the ordinance for a Special Use Permit application concerning property within 500 feet of the City boundary with Clark County or North Las Vegas. The applicant has prepared and submitted, as part of the overall project submittal, an impact report as required by the Ordinance for referral to affected agencies. On 11/25/08, a comment was received from the Regional Transportation Commission (RTC) suggesting a bus turn-out be provided for along West Lake Mead Boulevard in relation to the associated Site Development Plan Review (SDR-31479) that was submitted with this Special Use Permit application. As of 12/03/08, no comments or objections have been received from the other agencies notified.

**DEVELOPMENT STANDARDS**

*Pursuant to Title 19.10, the following parking standards apply:*

Applicable to 1971-80, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Parking Ratio	Required		Provided		Compliance
			Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Convenience Store (with accessory Beer/Wine/Cooler Off-Sale use)	2,944 SF	1:175	68	3	67	4	Y
General Retail Store, Other than Listed (3500 Square Feet or More)	9,479 SF	1:175					
SubTotal			68	3	67	4	
TOTAL (including handicap)			71		71		

## **ANALYSIS**

The proposed Special Use Permit is a request to provide Beer/Wine/Cooler Off-Sale Establishment within a proposed convenience store at the northwest corner of Lake Mead Boulevard and Decatur Boulevard. This use will operate within a 2,944 square-foot portion of a 12,423 square-foot single-story retail building as an ancillary use to the proposed convenience store. There are no protected uses within the required 400-foot distance separation and the proposed convenience store with Beer/Wine/Cooler Off-Sale use meets the intent of the C-1 (Limited Commercial) zoning district by providing additional retail services to the surrounding community.

- **Zoning**

This project is located within a C-1 (Limited Commercial) zoning district. The C-1 district is intended to provide most retail shopping and personal services. This district should be located on the periphery of residential neighborhoods and should be confined to the intersections of primary and secondary thoroughfares along major retail corridors. The C-1 (Limited Commercial) district is consistent with the SC (Service Commercial) category of the General Plan.

- **Use**

A Beer/Wine/Cooler Off-Sale Establishment is defined by Title 19 as an establishment whose license to sell alcoholic beverages is limited to the sale of beer, wine or coolers to consumers only and not for resale, in original sealed or corked containers, for the consumption off the premises where the same are sold, and is operated in connection with a grocery store, convenience store, or specialty merchandise store. Beer/Wine/Cooler Off-Sale cannot be located within 400-feet of any church, synagogue, school, childcare facility licensed for more than 12 children or City Park. The subject location does not have any of the before mentioned protected uses within the required 400-foot distance separation.

- **Minimum Special Use Permit Requirements**

- \*1. Except as otherwise provided, no beer/wine/cooler off-sale establishment (hereinafter “establishment”) shall be located within 400 feet of any church, synagogue, school, child care facility licensed for more than 12 children, or City Park.
- \*2. Except as otherwise provided in Requirement 3 below, the distance referred to in Requirement 1 shall be determined with reference to the shortest distance between two property lines, one being the property line of the proposed establishment which is closest to the existing use to which the measurement pertains, and the other being the property line of that existing use which is closest to the proposed establishment. The distance shall be measured in a straight line without regard to intervening obstacles. For purposes of measurement, the term “property line”

refers to property lines of fee interest parcels and does not include the property line of:

- a. Any leasehold parcel; or
- b. Any parcel which lacks access to a public street or has no area for on-site parking and which has been created so as to avoid the distance limitation described in Requirement 1.

- \*3. In the case of an establishment proposed to be located on a parcel of at least 80 acres in size, the minimum distances referred to in Requirement 1 shall be measured in a straight line:
  - a. From the nearest property line of the existing use to the nearest portion of the structure in which the establishment will be located, without regard to intervening obstacles; or
  - b. In the case of a proposed establishment which will be located within a shopping center or other multiple-tenant structure, from the nearest property line of the existing use to the nearest property line of a leasehold or occupancy parcel in which the establishment will be located, without regard to intervening obstacles.
- 4. When considering a Special Use Permit application for an establishment, which also requires a waiver of the distance limitation in Requirement 1, the Planning Commission shall take into consideration the distance policy and shall, as part of its recommendation to the City Council, state whether the distance requirement should be waived and the reason in support of the decision.
- 5. The minimum distance requirement in Requirement 1 do not apply to:
  - a. An establishment which has a non-restricted gaming license in connection with a hotel having 200 or more guest rooms on or before July 1, 1992, or in connection with a resort hotel having in excess of 200 guest rooms after July 1, 1992; or
  - b. A proposed establishment having more than 50,000 square-feet of retail floor space.
- \*6. All businesses, which sell alcoholic beverages, shall conform to the provisions of LVMC Chapter 6.50.
- 7. The minimum distance requirements set forth in Requirement 1, which are otherwise non-waivable under the provisions of Section 19.040.050(A)(4), may be waived:
  - a. In accordance with the provisions of Section 19.040.050(A)(4) for any establishment which is proposed to be located on a parcel within the Downtown Casino Overlay District;

- b. In accordance with the applicable provisions of the “Town Center Development Standards Manual” for any establishment which is proposed to be located within the T-C (Town Center) zoning district and which is designated MS-TC (Main Street Mixed Use) in the Town Center Land Use Plan;
- c. In connection with a proposed establishment having between 20,000 square-feet and 50,000 square-feet of retail floor space, if no more than 10 percent of the retail floor space is regularly devoted to the display or merchandising of alcoholic beverages; or
- d. In connection with a retail establishment having less than 20,000 square-feet of retail floor space, if the area to be used for the sale, display, or merchandising of alcoholic beverages and each use to be protected are separated by a highway or a right-of-way with a width of at least 100 feet.

The proposed use is in conformance with the minimum Special Use Permit Requirements for a Beer/Wine/Cooler Off-Sale Establishment.

## FINDINGS

In order to approve a Special Use Permit application, per Title 19.18.060 the Planning Commission and City Council must affirm the following:

1. **“The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.”**

The C-1 (Limited Commercial) zoning district is consistent with the General Plan designation of SC (Service Commercial). The proposed Beer/Wine/Cooler Off-Sale Establishment within a Convenience Store is a compatible use with neighboring commercial and residential uses. The use will be ancillary to the proposed convenience store and is compatible and harmonious with the existing and future surrounding land uses.

2. **“The subject site is physically suitable for the type and intensity of land use proposed.”**

The site is physically suitable for this type of use and the intensity is appropriate in this area. Adequate site access and parking is being provided for this use. As the Beer/Wine/Cooler Off-Sale Establishment is an accessory use to the proposed convenience store, the impact will not exceed that of the primary use.



3. **“Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.”**

Adequate access to the site is provided from Decatur Boulevard and Lake Mead Boulevard, both are 100-foot Primary Arterials, as defined by the Master Plan of Streets and Highways. Both Decatur Boulevard and Lake Mead Boulevard are sufficient in size to accommodate the amount of vehicular trips associated with the proposed use.

4. **“Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.”**

The proposed use will not result in detrimental effects to the human health and public safety as the project must comply with Chapter 6.50 of the Municipal Code, as well as Section 268.090 of the Nevada Revised Statutes, which further governs the sale and distribution of alcoholic beverages.

5. **The use meets all of the applicable conditions per Title 19.04.**

The proposed use conforms to the Minimum Special Use Permit Requirements for a Beer/Wine/Cooler Off-Sale Establishment use.

#### **PLANNING COMMISSION ACTION**

The Planning Commission amended condition #2 as shown.

#### **NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

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**ASSEMBLY DISTRICT** 6

**SENATE DISTRICT** 4

**NOTICES MAILED** 846 by City Clerk

**APPROVALS** 1

**PROTESTS** 5